

## Title 18. State Board of Equalization

### NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to promulgate Regulation 1706, Drop Shipments, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on September 13, 2000. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by September 13, 2000.

### INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Current law, Revenue and Taxation Code section 6007, provides that an owner of tangible personal property who delivers such property to a consumer on behalf of an out-of-state retailer is deemed the retailer of such property. Current law does not provide a standard by which the drop shipper may calculate the retail selling price of the property drop shipped.

Regulation 1706, Drop Shipments, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 6007. The regulation is proposed to provide, operative January 1, 2001, that the retail selling price of the property drop shipped is, in the absence of direct evidence, presumed to be cost plus 10%, except that a mark-up developed by audit must be used in specified circumstances; and the drop shipper may take a resale certificate from the customer if that person has a California seller's permit.

The State Board of Equalization has determined it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a non-controlling plain English summary of the regulation is available from the agency contact person named in this notice.

### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the regulation will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

## EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(7), the Board of Equalization finds that the adoption of proposed Regulation 1706 will have no significant adverse economic impact on business.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed regulation will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

## POTENTIAL COST IMPACT ON PRIVATE PERSONS/BUSINESSES

No impact.

## SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

## FEDERAL REGULATIONS

Proposed Regulation 1706 has no comparable federal regulations.

## PLAIN ENGLISH STATEMENT

Preparation of the Proposed Regulation 1706 included consideration of the “plain English” requirement. Any technical terms that may be unfamiliar to the intended users and are not industry-recognized are defined or explained.

## AUTHORITY

Section 7051, Revenue and Taxation Code.

## REFERENCE

Section 6007 Revenue and Taxation Code.

## CONTACT

Questions regarding the content of the proposed regulation should be directed to  
Mr. Leila Khabbaz (916) 324-2952, at 450 N Street, Sacramento, CA 95814.

Written comments for the Board's consideration or notice to present testimony should be directed to Diane Olson, Regulations Coordinator, (916) 322-9569, at 450 N Street, Sacramento, CA 95814.

#### ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared a statement of reasons and an underscored version (express terms) of the proposed regulations. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

#### ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

Date: June 29, 2000

#### STATE BOARD OF EQUALIZATION

Judy Newton  
Chief, Board Proceedings Division